

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

JOSEPH L. CARPENTER,

Plaintiff,

v.

MYSCHOOL.COM, an Internet Domain  
Name,

Defendant.

Case no. 1:15cv212-JFA

**EXHIBIT A**

Belousov, Yonatan

August 14, 2015

1

\*\*\* A PORTION OF THE TRANSCRIPT IS DESIGNATED  
CONFIDENTIAL \*\*\*

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

-----	:	
JOSEPH L. CARPENTER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.
	:	
MYSCHOOL.COM,	:	1:15-cv-212-AJT/JFA
	:	
Defendant.	:	
-----	:	

Deposition of YONATAN BELOUSOV, a witness  
herein, at the law offices of Dunlap, Bennett &  
Ludwig, 211 Church Street, S.E., Leesburg, Virginia,  
commencing at 10:19 a.m. on Friday, August 14, 2015,  
and the proceedings being taken down by stenotype and  
transcribed by Catherine B. Crump, a Notary Public in  
and for the Commonwealth of Virginia.

Henderson Legal Services, Inc.

202-220-4158

www.hendersonlegalservices.com

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 DAVID LUDWIG, ESQ.

4 Dunlap, Bennett & Ludwig

5 211 Church Street, S.E.

6 Leesburg, Virginia 20175

7 (703) 777-7319

8 dludwig@dbllawyers.com

9 Also Present: Joseph Carpenter, Plaintiff

10

11 On behalf of the Defendant:

12 DAVID WESLOW, ESQ.

13 Wiley, Rein, LLP

14 1776 K Street, N.W.

15 Washington, D.C. 20006

16 (202) 719-7525

17 dweslow@wileyrein.com

18

19

20

21

22

Belousov, Yonatan

August 14, 2015

5

1

P R O C E E D I N G S

2

Whereupon,

3

YONATAN BELOUSOV,

4

having first been duly sworn, was

5

examined and testified as follows:

6

7

EXAMINATION BY COUNSEL FOR PLAINTIFF

■

[REDACTED]

■

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

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Belousov, Yonatan

August 14, 2015

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[REDACTED]

22

Q. Okay. And when you're looking at a

1 potential purchase and maybe deciding what to bid on  
2 it, how do you decide what number to put on a given  
3 domain?

4           A.     Well, this is the most difficult part.  
5 It depends. You know, from my own kind of  
6 proprietary software, we have over a hundred  
7 variables we look into and a lot of the variables are  
8 elimination variables.

9           So if they do not have some specific good  
10 trait, we don't even want to look at them. That way,  
11 we eliminate most of the options and only the  
12 potentially good ones remain.

13           Once that happens, then I look into it  
14 personally manually and decide of how much I'm  
15 willing to bid for what name.

16           Q.     Is it based on just sort of the letter  
17 combination in the name or is it based on traffic  
18 history or what's --

19           A.     It depends on over a hundred factors.  
20 Some of them would be, first of all, the extension  
21 itself. Another one would be how short is it, how  
22 many words are there in the name, and then it comes

1 down to how many other extensions are taken, how  
2 often is it used in other domains that currently  
3 exist and how often is it used by other companies out  
4 there, other websites, other groups.

5 That's important because, to me, that shows  
6 genericness. So if there is some sort of word or  
7 phrase that's used by everybody, those are types of  
8 names that I'm interested in holding long term.

9 Q. Okay. Interesting.

10 So I think you said one of the variables was  
11 how -- whether the other top level domains -- maybe I  
12 misunderstood, but whether the other top level  
13 domains are used. So if you're looking at buying  
14 dog.org --

15 A. Okay.

16 Q. -- you would look at whether .net and  
17 .com are already purchased and that factors in?

18 A. That would just be one of our  
19 elimination factors. You know, something like "dog",  
20 it's taken across all extensions automatically, like  
21 all the top level ones, all the global ones, all the  
22 country codes. So that would show up as a really

August 14, 2015

30

3           Once that gives me a good indicator, then I  
4   look into it and I manually process this thing, Okay,  
5   well, it means dog. I know what that means and so  
6   on.

[illegible]

■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]

6 Q. What about that name -- I think you said  
7 "popped", but what made you interested in it  
8 particularly?

9 A. You know, so I told you I look at a lot  
10 of variables and most of the variables were very,  
11 very favorable, which is not often you will see that.

12 So it had a lot of other websites using the  
13 phrase "my school". You know, so there was something  
14 like 3,000 domains at that point in existence just  
15 between com, net, and org that contained the key  
16 words "My School" in them.

17 Besides that, there are thousands of companies  
18 that call themselves either my school -- either  
19 something-my school or my school-something. When you  
20 search for it on the Google and Bing or, I guess,  
21 Google and, you know, besides that, there's just a  
22 lot of search volume for that key word, and the more

1 interesting part was that even though this was an  
2 English phrase, it was actually surprisingly very  
3 worldwide.

4 So it seemed like different countries had  
5 something called my school-something. It was  
6 incredible. Like if I'm looking for a domain to buy,  
7 this was it.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

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■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ ■

■ ■ [REDACTED]

6 When did you first become aware of Joseph  
7 Carpenter, the plaintiff in this case?

8 A. The actual person Joseph Carpenter?

9 Q. Yes.

10 A. This would be the exact same time as I  
11 got the UDRP notification.

12 Q. When did you first become aware of his  
13 My School trademark registration?

14 A. The same time.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

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Q. Okay. And the oldest, I guess based on timestamps here, the E-mail at the very bottom, September 4th at 1:52 p.m., you are writing to Andy Booth asking -- well, what were you asking for in that E-mail?

A. This was after I received the UDRP notice. My attorney looked into it and he mentioned this isn't the first time and then he asked me to ask



3 Q. Okay. What was the name of your  
4 attorney at that time?

5                   A.       Zack Moscovitz.

6 Q. Do you recall how long after you  
7 received notice that the UDRP had been filed that  
8 this E-mail was initiated?

9                   A.     I guess right after.

Belousov, Yonatan

August 14, 2015

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6           A.     Yeah. I don't know what somebody --

7     what Andy or Oliver or whoever else owned it before

8     did with it, but from day one, because again, I want

9     to make sure that I wouldn't be infringing on even

10    common law marks, I made sure that all the links on

11    it are completely targeted to the descriptiveness of

12    the name.

13           Q.     When did you make those efforts?

14           A.     As soon as I got the domain. You know,

15    as soon as I could edit and change name servers, as

16    soon as possible.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Belousov, Yonatan

August 14, 2015

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[REDACTED]

14 Q. Okay. You said you chose these key  
15 words as soon as you acquired the domain or as soon  
16 as you took control of it?

17 A. So I chose key words as soon as I  
18 acquired the domain, but not necessarily these ones.  
19 I was still kind of -- you know, I'm choosing the key  
20 words based on what's a more valuable kind of online  
21 key word.

22 So this means something like online courses is

[illegible]

[illegible]

Belousov, Yonatan

August 14, 2015

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, CATHERINE B. CRUMP, the officer before  
3 whom the foregoing deposition was taken, do hereby  
4 testify that the witness whose testimony appears in  
5 the foregoing deposition was duly sworn by me; that  
6 the testimony of said witness was taken by me  
7 stenographically and thereafter reduced to  
8 typewriting under my direction; that said deposition  
9 is a true record of the testimony given by said  
10 witness; that I am neither counsel for, related to,  
11 nor employed by any of the parties to the action in  
12 which this deposition was taken; and further, that I  
13 am not a relative or employee of any attorney or  
14 counsel employed by the parties hereto nor  
15 financially or otherwise interested in the outcome of  
16 the action.

17 \_\_\_\_\_

18 CATHERINE B. CRUMP

19 Notary Public in and for the

20 Commonwealth of Virginia

21 Notary Registration No. 252644

22 My Commission Expires: May 31, 2017

Henderson Legal Services, Inc.

202-220-4158

www.hendersonlegalservices.com

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

JOSEPH L. CARPENTER,

Plaintiff,

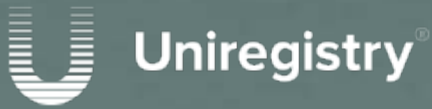
v.

MYSCHOOL.COM, an Internet Domain  
Name,

Defendant.

Case no. 1:15cv212-JFA

**EXHIBIT B**



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### Uniregistry continues to shine in .Com Winners and Losers

POSTED UNDER [Domain Registrars](#)

## Guy takes third stab at MySchool.com with lawsuit

BY ANDREW ALLEMANN — FEBRUARY 20, 2015 [POLICY & LAW](#) [36 COMMENTS](#)

**Owner of MySchool411.com really wants MySchool.com, preferably without paying for it.**

If at first you don't succeed, try try again.

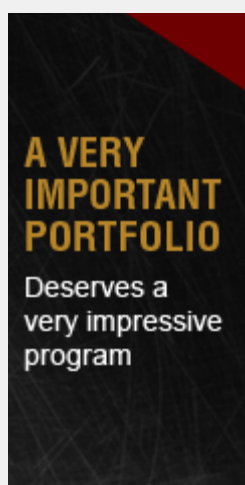
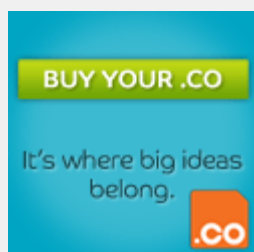
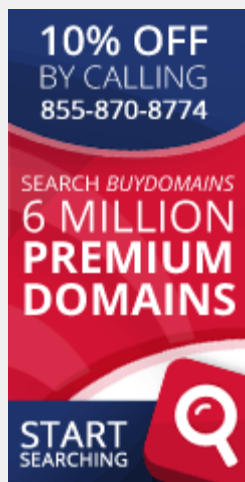
That's apparently Joseph Carpenter's belief.

Carpenter runs the site MySchool411.com. He filed a [UDRP](#) against MySchool.com in 2010 and lost. He filed another one last year and [lost again](#).



Here's one source behind the proliferation of Whois marketing

POSTED UNDER Domain Services



Now he has filed an *in rem* lawsuit ([pdf](#)) against the domain name in a third attempt to get the domain name without buying it.

The lawsuit uses the Uniregistry whois privacy on the domain name to suggest that the "registrant" is based in Cayman, and thus justify the *in rem* lawsuit.

MySchool.com is certainly a valuable domain name. Original Web Ventures paid \$42,000 to acquire the domain name in 2013. I don't think it's going to let this *in rem* action slip through, which means Carpenter may have bit off a bit more than he can chew.

(Thanks [Mike](#) for the tip.)




## Learn More...

1. [\\$42,000 MySchool.com domain name survives UDRP](#)
2. [Just Bulbs takes a 3rd stab at JustBulbs.com](#)
3. [Vanity.com files lawsuit to block transfer of domain name](#)

☐ [36 Comments](#)

Tags: [myschool.com](#), [udrp](#)

DOMAIN SERVICES PROFILE: GoDaddy.com



- [World's #1 Domain Registrar](#)
- Reach millions with Premium Listings
- Easy Bulk Registration & Transfer
- Make \$ with CashParking®
- Earn more as a Reseller or Affiliate

Sponsor

## Comments



Domainer Extraordinaire says

February 20, 2015 at 4:52 pm

Scumbag thief.

[Reply](#)



JC Kitlee says

March 17, 2015 at 2:14 pm

Idiot...learn the facts before you comment.

[Reply](#)



Robbie says

February 20, 2015 at 8:38 pm

What a mess this guy is going to have to spend thousands to defend it, ultimately this guy should make a fair offer.

[Reply](#)



JC Kitlee says

March 17, 2015 at 2:15 pm

Look at their asking price – \$750,000. Fair offer?? Come on.

[Reply](#)



Steve says

February 20, 2015 at 9:47 pm

Hopefully this time the owners can collect damages for this huge hassle. It's unbelievable the arbitrators didn't find reverse domain hijacking. What more evidence do they need?? There needs to be HUGE penalties for this type of nonsense.

[Reply](#)



JC Kitlee says

March 17, 2015 at 2:26 pm

NO, there's huge penalties for Trademark infringement and falsifying information to try to win UDRP disputes. In REAL court, this doesn't fly.

[Reply](#)



Richard says

February 20, 2015 at 10:34 pm

What a stubborn ass this Joseph Carpenter is, pony up or gtfo 😊

[Reply](#)



JC Kitlee says

March 17, 2015 at 2:16 pm

Yes, he is VERY stubborn. Good for him!

[Reply](#)



Tommy says

August 18, 2015 at 5:49 pm

Yes great job putting your family on welfare!

[Reply](#)



JC says

September 2, 2015 at 12:46 pm

Never going to happen dumbass.

[Reply](#)



gary says

February 21, 2015 at 1:25 am

Apparently Mr. Carpenter is also a realtor.

[Reply](#)



JC Kitlee says

March 17, 2015 at 2:18 pm

Apparently, Mr. Carpenter has a back bone and \$ funds to fight these cybersquatters as far as they want to take it. I love it!

[Reply](#)



Simon says

February 21, 2015 at 8:56 am

He just needs to counter-sue for damages. On an other note everyone domain owner loses domain in a UDRP should sue for damages. It'll help deter them in the future.

[Reply](#)



JC Kitlee says

March 17, 2015 at 2:31 pm

The UDRP is garbage. People who win should have lost – People who have lost, should have won. Ultimately, it's just a cheap solution for the UDRP to make fast, easy \$. The board members could care less. It's a joke. For real results – file a federal case.

It looks like Mr. Carpenter is looking for REAL results.

[Reply](#)



Nic says

February 21, 2015 at 9:10 pm

This would be an appropriate brand promotion in response:

MySchool911.com, Joseph Carpenter, "IP terrorist".

Also: Steven Rinehart, are you so desperate for work?

[Reply](#)



JC Kitlee says

[March 17, 2015 at 2:19 pm](#)

Maybe you should actually look and see who owns the Trademarks for this domain instead of popping off at the mouth.

[Reply](#)



Snoopy says

[February 22, 2015 at 5:27 pm](#)

You've got to wonder about the lawyers giving him advice.

[Reply](#)



zanahoria says

[February 23, 2015 at 1:56 am](#)

Who are the lawyers??

[Reply](#)

Reality says



February 22, 2015 at 5:32 pm

Tortious interference. It'll cost him about \$100,000 in damages, plus costs.

[Reply](#)



JC Kitlee says

March 17, 2015 at 2:23 pm

Come on... nothing will happen to a Trademark owner trying to protect his rights in court. Are you serious? You really don't know the law. Learn it. Only thing that will happen to these cybersquatters is they will burn through funds trying to fight it. Nothing else. And it doesn't look like Mr.Carpenter is going to stop fighting. Good luck!

[Reply](#)



Tommy says

August 18, 2015 at 5:51 pm

"You really don't know the law."

Aren't you the one who lost three lawsuits and counting Joseph? Maybe you shouldn't be the one giving advice on law.

[Reply](#)



JC says

September 2, 2015 at 12:45 pm

We will see 😊

[Reply](#)



JC Kitlee says

[March 17, 2015 at 2:13 pm](#)

You are ALL idiots! Joseph owns this trademark. Original Web Ventures are trying to get paid and have even faked the sale at auction to boost the price. They WILL LOSE in federal court and waste their \$ doing it. The attorney is just doing what's right. GET REAL! You're all a bunch of scumbag domain squatters trying to make a fast dollar.

[Reply](#)



Andrew Allemann says

[March 17, 2015 at 2:45 pm](#)

This is weird. I was just looking over the lawyer's declaration about publication of notice, and it looks like it was copied from a case for y8.org. They left y8.org in there. I wonder if the publication is still valid?

[Reply](#)



JC says

[June 1, 2015 at 11:43 am](#)

Let's see what happens when Just Bulbs gets a little help as a



[Trademark owner fighting against a domain owner/cybersquatter.](#)

[Check out justbulbs.com next month and see the fate of the domain name industry in regards to trademarks.](#)

[Reply](#)



JC says

[May 23, 2015 at 11:35 pm](#)

You all don't realize what is about to happen to your "domain name" world. Information has come to light about ICANN rules and the ability to register Trademarked domains with ANY registry. NO Trademarked domain will be allowed to be registered. NO Trademarked domain will be allowed to be sold or purchased at ANY auction such as Sedo. Because this cybersquatter has pushed Mr. Carpenter maliciously, he will now DESTROY your world. EVERY Trademark owner will be notified of this new and glorious information that will make it virtually impossible to buy or sell Trademarked domains. You asked for it.... You got it!!!! Enjoy what's coming. Original Web Ventures and Yoni B. will end up costing ALL of you MANY MILLIONS of \$\$\$. Don't forget to thank him.

[Reply](#)



Peter says

[May 30, 2015 at 10:47 am](#)

Btw, JC Kitlee is indeed Joseph Carpenter. Google that and you will find it associated with him. His project will never work, another loser with a social network idea..

[Reply](#)



JC says

June 1, 2015 at 10:12 am

Your facts are about as intelligent as you are. And what's more "loser" than buying domains in the hope that SOMEONE else is going to have a good idea or be creative or successful so that you can try to scam some money from them. SCUMBAG! Get a brain. You're worse than used car salesmen.

Put up some of your trademarked domains and let Joseph show you what's going to happen now. I'd like to see him shove [explicit content removed]. Your whole industry is screwed within the year. Mark it! 😊

[Reply](#)



Peter says

June 2, 2015 at 2:51 am

Ok Joseph 😊

[Reply](#)



Tommy says

August 18, 2015 at 5:46 pm

Who cares Joseph. You'll be bankrupt way before that :0

[Reply](#)



JC says

September 2, 2015 at 1:13 pm

Not going to happen, sorry to tell you. What's amazing is the fact that Yoni, the current owner, is willing to

spend a half a million dollars or more to keep a domain name that isn't worth anything to anyone but me because, being the sole Trademark holder in the US, I'm the only one that would buy it – and that ain't going to happen now. I don't need the domain to be successful...lol. I could call it Schrap.com and it literally wouldn't matter! I would change the name before I paid for this domain. SAD for Yoni. I even offered him what he paid for it just to be cool and stop the giant bill he is running up and still he wants to be stubborn. There's no winning for him and he's just paying for his attorneys next house. DUMB! He can't sell the domain to anyone else because I'll just come after that buyer next and then he'll get sued by them for non-disclosure. So all he can do is sit on it and collect a small pay check each month for the next 30 years until he recovers half of what he's spending in attorneys fees. What a joke. I have nothing to lose even if I don't win the federal case because the counter claims were dropped because he's so scared of his personal assets getting taken when he loses. So I'll just keep running up his bills on purpose and make this the most expensive domain he will ever buy in his life. I can prove a large amount of bad faith so he's not getting awarded any fees regardless of the outcome. And when I do win the case and he appeals it, I'll just keep on running up the bills. And if I don't, I'll just appeal it and keep running up his bills. I don't need an attorney anymore and I can better represent myself in this, especially with a jury involved so my costs are minor. It is literally the dumbest and most ignorant waste of money that I have ever seen in my life. Besides, I'm kinda enjoying learning the legal side of things 😊

Cheers!

[Reply](#)

Tommy says



August 18, 2015 at 5:47 pm

Joseph what you should worry about is that you'll be bankrupt way before that would ever happen :). Have fun living on welfare!

[Reply](#)



JC says

September 2, 2015 at 1:15 pm

What's welfare? LOL! You're sad and ignorant.

[Reply](#)



Peter says

June 2, 2015 at 3:54 pm

Also, JC/JC Kitlee/Joseph Carpenter. Maybe you need some psychological help. You're on here attacking people for having their own opinions and making several different usernames. Just have some guts and use your own name, loser. I look forward to seeing you lose the case, you'll be working at McDonalds trying to pay off debts this time next year. Your idea probably isn't even original, everyone thinks they have the next big thing.... Another cheap person... Probably sitting in your mom's basement, get a job. You're the scumbag

[Reply](#)



JC says

June 2, 2015 at 5:38 pm

I'm sorry to disappoint you Dick, I mean "Peter", but my name is JC. That's what you do is assume fiction for fact. The fact is, I'll never work at McD's either will Joseph. We are in business together, so I can state this as a fact. The case won't be lost in ANY way or form – again a fact. We will see who's right about the website soon enough. And, my mom's dead. So....enjoy your domain name scavenger hunt for loose change and do me a favor and stop into Las Vegas sometime and I'll be glad to welcome you.

[Reply](#)

Peter says

June 2, 2015 at 11:58 pm

Ok Joseph 🙄 ... I know JC is short for Joseph Carpenter. Strange that you know so much about a stranger's case, and you're on him defending him so much. Nobody cares about your mom, stop posting personal info...get a life.

[Reply](#)

## Leave a Reply

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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

JOSEPH L. CARPENTER,

Plaintiff,

v.

MYSCHOOL.COM, an Internet Domain  
Name,

Defendant.

Case no. 1:15cv212-JFA

**EXHIBIT C**

Capital Reporting Company  
Individual Capacity- Carpenter Joseph L. 08-13-2015

1

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

-----:
JOSEPH L. CARPENTER, :
:
Plaintiff, :
:
vs. : Case No.:
: 1:15cv212-JFA
:
MYSCHOOL.COM, an Internet :
Domain Name, :
:
Defendant. :
-----:

McLean, Virginia
Thursday, August 13, 2015

Videotaped Deposition of:

JOSEPH L. CARPENTER

called for oral examination by counsel for
Defendant, pursuant to notice, at Wiley Rein, 7925
Jones Branch Drive, Suite 6200, McLean, Virginia,
before Felicia A. Newland, CSR, of Capital Reporting
Company, a Notary Public in and for the Commonwealth
of Virginia, beginning at 12:31 p.m., were present
on behalf of the respective parties:



Capital Reporting Company  
Individual Capacity- Carpenter Joseph L. 08-13-2015

2

1 On behalf of Plaintiff:

2 CHRISTINA HEISCHMIDT, ESQUIRE  
Dunlap, Bennett & Ludwig  
3 211 Church Street  
Leesburg, Virginia 20175  
4 cheischmidt@dbllawyers.com

5 On behalf of Defendant:

6 DAVID WESLOW, ESQUIRE  
Wiley Rein  
7 1776 K Street, N.W.  
Washington, D.C. 20006  
8 (202) 719-7000

9  
Also present:

10 Yonatan Belousov  
11 Solomon Francis, Videographer

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Capital Reporting Company  
Individual Capacity- Carpenter Joseph L. 08-13-2015

6

1 VIDEOGRAPHER: Good afternoon. This  
2 begins Media Unit No. 1 of the audio/visual  
3 deposition of Mr. Joseph L. Carpenter taken in the  
4 matter of Joseph L. Carpenter, Plaintiff, versus  
5 MySchool.com, an Internet domain name, Defendant,  
6 pending in the United States District Court for the  
7 Eastern District of Virginia, Alexandria Division,  
8 Case No. 1:15CV212JFA.

9 This deposition is being held at the  
10 law offices of Wiley Rein, LLP, located at 7925  
11 Jones Branch Drive, McLean, Virginia, on  
12 August 13th, 2015 at approximately 12:31 p.m. My  
13 name is Solomon Francis, and our court reporter  
14 Felicia Newland, we are with Capital Reporting  
15 Company.

16 For the record, will Counsel please  
17 introduce themselves and whom they represent.

18 MS. HEISCHMIDT: Christina Heischmidt,  
19 Dunlap, Bennett & Ludwig, for Plaintiff, Joseph  
20 Carpenter.

21 MR. WESLOW: David Weslow with Wiley Rein  
22 on behalf of the Defendant, MySchool.com.



Capital Reporting Company  
Individual Capacity- Carpenter Joseph L. 08-13-2015

108

[REDACTED]

4 I don't know, is this -- Myschool.com, is  
5 this something that the attorney typed in? Because  
6 this isn't part of the screenshot. This is a  
7 printed type -- it's typed in not -- not as part of  
8 the site.

9 This was never on our site. This was  
10 typed in as part of the page as submitted to the  
11 thing. It's probably typed in by the attorney.

12 Q So you think the attorney added that,  
13 "Myschool.com" --

14 A Yeah.

15 Q -- when submitting the --

16 A Yeah. It's not part of the site. The  
17 same as they added page 1 of 1, page 2 of 2. It's  
18 typed in over the top of the page. My sites never  
19 said Myschool.com.

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

4 Q Thank you.

5 And it's your position that the attorney  
6 that prepared this typed "Myschool.com" on the --  
7 on the pages that were submitted?

8 A Yeah. It's very obvious. They're not  
9 part of the site. It's different printing, it's  
10 different everything, so definitely added after.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

21 Q On December 8th, 2008, how were you using  
22 the Myschool trademark to provide advertising

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1 services; namely, advertising promotion and  
2 offering information about the goods and services  
3 of others via a global computer network?

4 A There's an iTunes. There was an iTunes  
5 link. There was also eCalulator link, both to  
6 different sites. And this Bad Idea Magazine was a  
7 link to their site and a banner ad.

[REDACTED]

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█ [REDACTED]

2 Q Did Apple, eCalculator or Bad Idea ever  
3 communicate with you about the ads that you put up  
4 for them?

5 A No.

6 Q So these were ads that you put up on the  
7 site without having been contacted by those  
8 companies?

9 A Yeah. Links, like you would put on  
10 anything. Like Facebook that I have on now, I  
11 didn't ask Facebook to put a link or YouTube to put  
12 a link, or Vimeo to put a link, Twitter to put a  
13 link, but they're all on my site.

14 Q And no payment was ever received from Bad  
15 Idea, eCalculator, or iTunes?

16 A No. At that point, you're trying to  
17 promote business, so you're trying to give free  
18 stuff away.

19 Q On December 8th, 2008, how were you using  
20 Myschool -- the Myschool trademark to provide a  
21 website that enables users to post items for sale  
22 through online classified advertisements and



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1 messages?

2 A Well, Dell laptop is one. Dell is  
3 another. Alumni. Sell anything, post for sale.  
4 Basically the message boards for, in fact, a mini  
5 Craigslist. You could post anything you needed for  
6 sale and people could respond.

7 Q So that would -- it was the message board  
8 service that was being used to post items for sale?

9 A Yes.

10 Q But you don't know who would have posted  
11 the Dell laptop listing?

12 A I have no idea.

[REDACTED]

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[REDACTED]

8 Q As of December 8th, 2008, how were you  
9 using the Myschool trademark to provide  
10 communications services; namely, providing online  
11 chat rooms and forums for transmission of messages,  
12 photographs, information, and data among computer  
13 users in the field of general interest, including  
14 among alumni and various educational institutions?

15 A Again, message boards, posts. Everything  
16 about the school on the message board can be  
17 uploaded on the site, pictures. Alumni could talk  
18 to each other, comment on -- again, I submitted  
19 several more screenshots of the actual commenting  
20 and the back and forth between alumni, and the  
21 comments on sales and, you know, all -- I've  
22 already put that in discovery. This site

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1     functioned 100 percent at this time.

2             Q     On December 8th, 2008?

3             A     Uh-huh. The transmission of messages is  
4     simply writing a piece of text that anybody could  
5     see.

1     [REDACTED]

2     [REDACTED]

3     [REDACTED]

4     [REDACTED]

5     [REDACTED]

6     [REDACTED]

7     [REDACTED]

8     [REDACTED]

9     [REDACTED]

10    [REDACTED]

11    [REDACTED]

12    [REDACTED]

13    [REDACTED]

14    [REDACTED]

15    [REDACTED]

16    [REDACTED]

17    [REDACTED]

20 Q As of December 8th, 2008, you said there  
21 were probably 20 to 30 users at the site. How many  
22 of those users were not helping you develop the

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1 site?

2 A Probably half.

3 Q So 10 to 15?

4 A Yeah, probably.

5 Q Were any of those users not known to  
6 someone that was helping you develop the site?

7 A I couldn't tell you. I didn't know some  
8 of them. Whether Edwin knew some of them, Chris  
9 knew some of them. It's a social networking site  
10 so in some realm or another, everybody knows  
11 everybody.

12 Q So those 10 to 15 were probably all  
13 connected to the 10 to 15 that were helping you  
14 build the site?

15 A Yeah, probably. Like Facebook, you have  
16 to be friends. That's kind of how it works.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

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[REDACTED]

[REDACTED]

3 Q Okay. So everything in the new trademark  
4 application should have a first use date of --

5 A 2013.

6 Q 2013?

7 A Uh-huh.

8 Q When in 2013?

9 A I can't remember when. Either January or  
10 February 2013. I can't -- I'd have to go look.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

21           Q     Do you agree with the three-member panel  
22     that it is okay for someone other than you to use

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Individual Capacity- Carpenter Joseph L. 08-13-2015

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1 the Myschool.com domain name to advertise  
2 educational products and services?

3 A No.

4 Q Why not?

5 A Because I own the right to advertising on  
6 the Internet for Myschool.

7 Q In association with educational products  
8 and services?

9 A Advertising, period.

10 And I wouldn't have a problem if it was  
11 only educational products and services, but  
12 Myschool.com is being used to advertise anything  
13 beyond the scope of advertising Myschool just  
14 related to those -- the domain name, those two  
15 words.

16 It actually advertises for pigs or for  
17 furniture or for dating or for social networking  
18 or -- it advertises for almost anything. It  
19 doesn't solely advertise for the words "my school,"  
20 so that's where I have a big problem.

21 Q So did -- did you say you would not have  
22 a problem with a domain name if it was used solely



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1 to advertise educational products and services?

2 A No, I would still have a problem with it,  
3 because I own the right for advertising on the  
4 Internet for Myschool.

5 Q Even in association with --

6 A In association with anything.

7 Q -- school?

8 A I believe if you read the classification,  
9 it says advertising on the Internet.

10 Q So your position is you own Myschool for  
11 any type of advertising on the Internet?

12 A Yes.

[REDACTED]

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[REDACTED]

22 Q So is it now clear to you that Original

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Individual Capacity- Carpenter Joseph L. 08-13-2015

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1 Web Ventures has been the owner of the domain name  
2 the whole time?

3 A By the privacy.link number, yes, I  
4 figured that out. But it was long after this was  
5 filed.

[REDACTED]



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[REDACTED]

8 BY MR. WESLOW:

9 Q Mr. Carpenter, before we took a break, we  
10 had talked between paragraph 11 of the complaint,  
11 the complaint is Exhibit 28. Paragraph 11 of the  
12 complaint states, quote, the legally effective  
13 registration date of the disputed domain name is  
14 the date which it last sold or changed hands, which  
15 in this case, 2014.

16 Is that still your position?

17 A I don't know. That's the position I was  
18 told, so I'm sorry.

19 Q Did you understand from the UDRP  
20 proceeding that the domain name was purchased at a  
21 Sedo auction in 2013?

22 A Yes.

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1 Q So is it still your position, as stated  
2 in paragraph 11, that the date the domain last sold  
3 or changed hands was 2014?

4 A Now that I know that they own it still,  
5 no. But before then, I thought it had changed  
6 hands.

7 Q So at this point, it's your position that  
8 Original Web Ventures has been the owners since  
9 2013?

10 A Yes.

[REDACTED]

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, FELICIA A. NEWLAND, CSR, the officer before  
3 whom the foregoing videotaped deposition was taken,  
4 do hereby certify that the witness whose testimony  
5 appears in the foregoing videotaped deposition was  
6 duly sworn by me; that the testimony of said witness  
7 was taken by me in stenotype and thereafter reduced  
8 to typewriting under my direction; that said  
9 videotaped deposition is a true record of the  
10 testimony given by said witness; that I am neither  
11 counsel for, related to, nor employed by any of the  
12 parties to the action in which this deposition was  
13 taken; and, further, that I am not a relative or  
14 employee of any counsel or attorney employed by the  
15 parties hereto, nor financially or otherwise  
16 interested in the outcome of this action.

17 

18 FELICIA A. NEWLAND, CSR  
19 Notary Public in and for the  
20 Commonwealth of Virginia

21 My commission expires:  
22 May 31, 2017  
Registration No.: 7569984

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

JOSEPH L. CARPENTER,

Plaintiff,

v.

MYSCHOOL.COM, an Internet Domain  
Name,

Defendant.

Case no. 1:15cv212-JFA

**EXHIBIT D**



**Trademark/Service Mark Application, Principal Register****TEAS Plus Application**

Serial Number: 77137273

Filing Date: 03/22/2007

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<u><a href="#">MYSCHOOL</a></u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	MYSCHOOL
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	CARPENTER., JOSEPH L.
*STREET	6460 SAPPHIRE ST.
*CITY	LAS VEGAS
*STATE (Required for U.S. applicants)	Nevada
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	89108
PHONE	702-622-8777
FAX	866-810-6114
EMAIL ADDRESS	jlccanbe@yahoo.com

MYSCHOOL00000313

AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
*INTERNATIONAL CLASS	038
*DESCRIPTION	<p>Communication services, namely, electronic transmission of data and documents among users of computers; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet; Computer transmission of information accessed via a code or a terminal; Data communication by electronic mail; Delivery of messages by electronic transmission; Delivery of personalized greeting cards to others via electronic mail; Electronic message sending; Electronic message transmission; Electronic store-and-forward messaging; Electronic transmission of data and documents via computer terminals; Electronic transmission of messages and data; Electronic, electric, and digital transmission of voice, data, images, signals, and messages; Information transmission services via digital networks; Information transmission via electronic communications networks; Providing access to databases; Providing on-line chat rooms for transmission of messages among computer users concerning <b>field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics</b>; Providing on-line communications links which transfer the website user to other local and global web pages; Providing on-line electronic bulletin boards for transmission of messages among computer users concerning <b>field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics</b>; Providing on-line forums for transmission of messages among computer users concerning <b>field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics</b>; Streaming of audio material on the Internet; Streaming of video material on the Internet; Transmission of messages over electronic media; Transmission of short messages; Transmission of sound and vision via</p>

	satellite or interactive multimedia networks; Transmission of sound, picture and data signals; Transmission of sound, video and information
*FILING BASIS	SECTION 1(b)
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
*INTERNATIONAL CLASS	035
*DESCRIPTION	Advertising via electronic media and specifically the internet; Advertising, including promotion relating to the sale of articles and services for third parties by the transmission of advertising material and the dissemination of advertising messages on computer networks; Providing a web site at which users can offer goods for sale and buy goods offered by others; Providing a web site that enables users to post items for sale through on-line classified advertisements; Providing a web site where users can post ratings, reviews and recommendations on products and services; Providing a web site which features advertisements for the goods and services of others on a global computer network; Providing information about the goods and services of others via the global computer network; Public advocacy to promote awareness of <b>educational material</b>
*FILING BASIS	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
<b>CORRESPONDENCE INFORMATION</b>	
*NAME	CARPENTER., JOSEPH L.
*STREET	6460 SAPPHIRE ST.
*CITY	LAS VEGAS
*STATE (Required for U.S. applicants)	Nevada

* COUNTRY	United States
* ZIP/POSTAL CODE (Required for U.S. applicants only)	89108
PHONE	702-622-8777
FAX	866-810-6114
* EMAIL ADDRESS	jlccanbe@yahoo.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
NUMBER OF CLASSES	2
FEE PER CLASS	275
TOTAL FEE DUE	550
<b>SIGNATURE INFORMATION</b>	
* SIGNATURE	/JC Kitlee/
* SIGNATORY'S NAME	Joseph L. Carpenter
SIGNATORY'S POSITION	Owner
* DATE SIGNED	03/21/2007
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Thu Mar 22 02:11:31 EDT 2007
TEAS STAMP	USPTO/FTK-68.224.72.198-2 0070322021131414281-77137 273-370aca0594a6a33409586 adfd8504f22c6-CC-1292-20 070322003810919895



PTO Form 1478 (Rev 9/2006)  
OMB No. 0651-0009 (Exp 09/30/2008)

## **Trademark/Service Mark Application, Principal Register**

### **TEAS Plus Application**

**Serial Number: 77137273**

**Filing Date: 03/22/2007**

To the Commissioner for Trademarks:

Correspondence Information: CARPENTER., JOSEPH L.

6460 SAPPHIRE ST.

LAS VEGAS, Nevada 89108

702-622-8777(phone)

866-810-6114(fax)

jlcenbe@yahoo.com (authorized)

A fee payment in the amount of \$550 will be submitted with the application, representing payment for 2 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /JC Kitlee/ Date: 03/21/2007

Signatory's Name: Joseph L. Carpenter

Signatory's Position: Owner

RAM Sale Number: 1292

RAM Accounting Date: 03/22/2007

Serial Number: 77137273

Internet Transmission Date: Thu Mar 22 02:11:31 EDT 2007

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TEAS Stamp: USPTO/FTK-68.224.72.198-2007032202113141  
4281-77137273-370aca0594a6a33409586adfa  
8504f22c6-CC-1292-20070322003810919895

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

JOSEPH L. CARPENTER,

Plaintiff,

v.

MYSCHOOL.COM, an Internet Domain  
Name,

Defendant.

Case no. 1:15cv212-JFA

**EXHIBIT E**

**To:** CARPENTER., JOSEPH L. ([jlccanbe@yahoo.com](mailto:jlccanbe@yahoo.com))  
**Subject:** TRADEMARK APPLICATION NO. 77137273 - MYSCHOOL - N/A  
**Sent:** 7/9/2007 7:52:06 AM  
**Sent As:** ECOM106@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/137273

**MARK:** MYSCHOOL

**\*77137273\***

**CORRESPONDENT ADDRESS:**

CARPENTER., JOSEPH L.  
6460 SAPPHIRE ST  
LAS VEGAS, NV 89108-5652

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

-

**APPLICANT:** CARPENTER., JOSEPH L.

**CORRESPONDENT'S REFERENCE/DOCKET**

**NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

[jlccanbe@yahoo.com](mailto:jlccanbe@yahoo.com)

**OFFICE ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

**ISSUE/MAILING DATE:** 7/9/2007

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: TEAS Plus applicants should submit the following documents using the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index.html>: (1) written responses to Office actions; (2) preliminary amendments; (3) changes of correspondence address; (4) changes of owner's address; (5) appointments and revocations of attorney; (6) amendments to allege use; (7) statements of use; (8) requests for extension of time to file a statement of use, and (9) requests to delete a §1(b) basis. If any of these documents are filed on paper, they must be accompanied by a \$50 per class fee. 37 C.F.R. §§2.6(a)(1)(iv) and 2.23(a)(i). Telephone responses will not incur an additional fee. NOTE: In addition to the above, applicant must also continue to accept correspondence from the Office via e-mail throughout

MYSCHOOL00000322



the examination process in order to avoid the additional fee. 37 C.F.R. §2.23(a)(2).

The assigned trademark examining attorney has reviewed the referenced application and determined the following.

#### Search Results.

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

Nevertheless, the applicant should note the following ground for refusal.

#### STATUTORY REFUSAL: THE MARK IS MERELY DESCRIPTIVE.

The examining attorney refuses registration on the Principal Register because the proposed mark merely describes the services. Trademark Act Section 2(e)(1), 15 U.S.C. Section 1052(e)(1); *Trademark Manual of Examining Procedure* Section 1209.

A mark is merely descriptive under Trademark Act Section 2(e)(1), 15 U.S.C. 1052(e)(1), if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the relevant services. *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986); *In re MetPath Inc.*, 223 USPQ 88 (TTAB 1984); *In re Brightâ€™Crest, Ltd.* 204 USPQ 591 (TTAB 1979); TMEP section 1209.01(b).

The examining attorney must consider whether a mark is merely descriptive in relation to the identified services, not in the abstract. *In re Omaha National Corp.*, 819 F.2d 1117, 2 USPQ2d 1859 (Fed. Cir. 1987); *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA 1978); *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985).

The applicant's mark is MY SCHOOL in standard character format for services in International Class 35 and 38.

The term MY is defined in pertinent part as follows:

## **my**

### **my** (mi) *adjective*

The possessive form of I

1. Used as a modifier before a noun: *my boots; my accomplishments.*
2. Used preceding various forms of polite, affectionate, or familiar address: *My friend, you are so right.*
3. Used in various interjectional phrases: *My word! My goodness!*

### *interjection*

Used as an exclamation of surprise, pleasure, or dismay: *Oh, my! What a tiring day!*

[Middle English *mi*, from Old English *min*.][\[1\]](#)

The applicant's services feature the user's school. See the applicant's identification of services.

A mark that combines descriptive terms may be registrable if the composite creates a unitary mark with a separate, nondescriptive meaning. *In re Colonial Stores, Inc.*, 394 F.2d 549, 157 USPQ 382 (C.C.P.A. 1968) (holding SUGAR & SPICE not to be merely descriptive of bakery products). However, the mere combination of descriptive words does not automatically create a new nondescriptive word or phrase. *E. g.*, *In re Associated Theatre Clubs Co.*, 9 USPQ2d 1660, 1662 (TTAB 1988) (finding GROUP SALES BOX OFFICE descriptive for theater ticket sales services). The registrability of a mark created by

combining only descriptive words depends on whether a new and different commercial impression is created, and/or the mark so created imparts an incongruous meaning as used in connection with the goods and/or services. Where, as in the present case, the combination of the descriptive words creates no incongruity, and no imagination is required to understand the nature of the goods and/or services, the mark is merely descriptive. *E.g., In re Copytele Inc.*, 31 USPQ2d 1540, 1542 (TTAB 1994); *Associated Theatre Clubs*, 9 USPQ2d at 1662.

Since the applicant's services feature the user's school, this examining attorney finds the entire mark merely descriptive and registration is therefore refused.

The examining attorney can not now recommend an amendment to the Supplemental Register because the application was filed under Trademark Act Section 1(b). A mark in an application under Trademark Act Section 1(b) is not eligible for registration on the Supplemental Register until an acceptable amendment to allege use under 37 C.F.R. §2.76 or statement of use under 37 C.F.R. §2.88 has been filed. 37 C.F.R. §§2.47(d) and 2.75(b); TMEP §1102.03. When a Section 1(b) application is amended to the Supplemental Register, the effective filing date of the application is the date of filing of the allegation of use. 37 C.F.R. §2.75(b); TMEP §§206.01 and 1102.03.

While it is recognized that the process for *filing* an application in TEAS PLUS can be a simple one, the process of satisfying all of the requirements for *registration* is indeed complex. It is strongly recommended, although not required, that the applicant hire a trademark attorney because of the technicalities involved in this application. The Patent and Trademark Office cannot aid in the selection of an attorney.

#### Responding to this Office Action.

No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. In addition to the identifying information required at the beginning of this letter, the applicant should provide a telephone number to speed up further processing.

In all correspondence to the Patent and Trademark Office, the applicant should list the name and law office of the examining attorney, the serial number of this application, the mailing date of this Office action, and the applicant's telephone number.

If the applicant has any questions or needs assistance in responding to this Office Action, please telephone the assigned examining attorney. However, you may be able to can receive a response faster by sending me an email at [john.dalier@uspto.gov](mailto:john.dalier@uspto.gov) with any questions regarding this Office Action. Note that this email address is not for responses to Office Actions, just questions about Office Actions.

#### ***Copies of Documents***

The applicant may view and download any or all documents contained in the electronic file wrapper of all pending trademark applications, as well as many registrations via the Trademark Document Retrieval (TDR) system available online at: <http://portal.uspto.gov/external/portal/tow>. Currently, you can access all pending applications and all Madrid Protocol filings, and also many registrations, via TDR. The USPTO is in the process of converting all remaining registrations into a digital format, to permit future TDR access. This conversion process is expected to take several years.

Downloads are converted into PDF format and may be viewed with any PDF viewer, including the free Adobe Reader.

/John D. Dalier/  
Trademark Examining Attorney  
Law Office 106; 571 272 9150  
Fax (571) 273-9106

**RESPOND TO THIS ACTION:** If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office Action should be filed using the Office's Response to Office action form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

JOSEPH L. CARPENTER,

Plaintiff,

v.

MYSCHOOL.COM, an Internet Domain  
Name,

Defendant.

Case no. 1:15cv212-JFA

**EXHIBIT F**



## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77137273
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant Joseph L. Carpenter (“Applicant”) responds as follows to the Office Action (“Office Action”) dated July 9, 2007 in respect of Application Serial No. 77137273 (the “Application”) for the mark MSCHOOL (“MYSCHOOL”, “Applicant’s Mark” or “the Mark”).</p> <p>Applicant respectfully contends that the mark MYSCHOOL is not merely descriptive of the services identified in the Application and therefore respectfully requests the Examining Attorney to withdraw the refusal to register on this basis.</p> <p><u>AMENDMENT TO IDENTIFICATION OF GOODS AND SERVICES</u></p> <p>Before addressing the issue of descriptiveness, Applicant respectfully requests that the identification of services be amended as requested in the appropriate section of this Response to Office Action.</p> <p><u>MYSCHOOL MARK IS NOT MERELY DESCRIPTIVE OF APPLICANT'S SERVICES</u></p> <p>In order for the refusal of Applicant’s MYSCHOOL mark to be proper, this mark must merely describe the services identified in the Application. Applicant submits that it is unlikely that consumers would conclude that the MYSCHOOL <i>mark merely</i> describes these particular services. It is well settled that for a mark to be deemed descriptive, it must “forthwith convey an immediate idea of the ingredients, qualities or characteristics of the goods.” <i>Stix Products, Inc. v. United Merchants &amp; Mfrs. Inc.</i>, 295 F.Supp. 479, 160 U.S.P.Q. 777 (S.D.N.Y.)</p> <p>Applicant submits that the mark MYSCHOOL does not convey to consumers an “immediate idea” of the services identified in the Application, but is, at most, only “suggestive” of Applicant’s goods. This is not a bar to registration on the Principal Register. Specifically, T.M.E.P. §1209.01(a) states in pertinent part:</p> <p>“Suggestive marks are those that, when applied to the goods at issue, require imagination, thought or perception to reach a conclusion as to the nature of those goods.....Suggestive marks, like fanciful and arbitrary marks, are registrable on the Principal Register without proof</p>	

of secondary meaning. Therefore, a designation does not have to be devoid of all meaning in relation to the goods to be registrable.”

That is, a mark may have some meaning in relation to the goods or services in question and still be registrable on the Principal Register, so long as it would be necessary for consumers to engage in some “imagination, thought and perception” to associate the term with the subject goods. Such is the case here. While the term MYSCHOOL might have some attenuated meaning in relation to the services in question, consumers of these services would clearly need to engage in some “imagination, thought and perception” to associate this mark with Applicant’s specific services.

Based on this reasoning, Courts have, for example, concluded that the following marks are not “descriptive”, but only “suggestive” of the goods in question:

**RAPID-SHAVE** for shaving cream (*Colgate-Palmolive Co. v House for Men, Inc.*, 143 U.S.P.Q. 159 (T.T.A.B. 1964);

**AUDIO FIDELITY** for phonograph records (*Audio Fidelity, Inc. v. London Records, Inc.*, 332 F.2d 577, 141 U.S.P.Q. 792 (C.C.P.A. 1965); and

**DIAL-A-MATRESS** for mattress sales (*Dial-A-Mattress Operating Corp. v. Mattress Madness*, 841 F. Supp. 1339.

In *Rapid Shave*, the Court ruled that RAPID-SHAVE was not merely descriptive for shaving cream, and in the same proceeding cancelled a registration for QUICK SHAVE for the same goods based on likelihood of confusion with RAPID-SHAVE.

In *Audio Fidelity*, the Court found AUDIO FIDELITY not to be descriptive, but only “suggestive” of phonograph records, despite the Trademark Trial and Appeal Board’s conclusion below that:

“it is clear that, as defined, the word ‘audio’ means sound and that the word “fidelity” means faithfulness [sic]; that both terms have a well recognized meaning in the field of sound reproduction equipment.....It is also clear that terms synonymous with “audio fidelity”, such as “sound fidelity” and “sonic fidelity” have been and still are frequently being used in the sound equipment field..” *Audio Fidelity, supra*, 322 F.2d 578-579.

In *Dial-A-Mattress*, Plaintiff was engaged in the business of selling mattresses to the public by soliciting telephone orders. Despite the fact that the subject mark contained the elements “Dial” and “Mattress”, the Court ruled that the mark DIAL-A-MATRESS was not descriptive of Plaintiff’s services, which enabled consumers to order mattresses by merely “dialing” the Plaintiff’s telephone number.

Applicant respectfully submits that the mark MYSCHOOL is no more descriptive of Applicant’s services than the RAPID-SHAVE, AUDIO FIDELITY and DIAL-A-MATRESS marks are for the goods or services to which they relate.

#### Doubts on the Issue of Descriptiveness Should Be Resolved in Favor of Applicant

Finally, Applicant notes that the law is clear that any doubts on the issue of descriptiveness should be resolved in favor of the Applicant. *In re Pennwalt Corporation*, 173 U.S. P.Q. 317 (T.T.A.B. (“DRI-FOOT” not merely descriptive of foot anti-perspirant.)

#### CONCLUSION

Based on the foregoing, Applicant respectfully submits that its MYSCHOOL mark is not “merely descriptive” of the goods identified in the Application, and therefore respectfully requests that the Section 2(e)(1) refusal be withdrawn.

Respectfully submitted,

Gregory F. Buhyoff



Weide & Miller, Ltd.  
Attorneys for Applicant

**GOODS AND/OR SERVICES SECTION (035)(current)**

<b>INTERNATIONAL CLASS</b>	035
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**DESCRIPTION**

Advertising via electronic media and specifically the internet; Advertising, including promotion relating to the sale of articles and services for third parties by the transmission of advertising material and the dissemination of advertising messages on computer networks; Providing a web site at which users can offer goods for sale and buy goods offered by others; Providing a web site that enables users to post items for sale through on-line classified advertisements; Providing a web site where users can post ratings, reviews and recommendations on products and services; Providing a web site which features advertisements for the goods and services of others on a global computer network; Providing information about the goods and services of others via the global computer network; Public advocacy to promote awareness of educational material

<b>FILING BASIS</b>	Section 1(b)
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**GOODS AND/OR SERVICES SECTION (035)(proposed)**

<b>INTERNATIONAL CLASS</b>	035
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**DESCRIPTION**

Advertising services, namely, advertising, promoting and offering information about the goods and services of others via a global communication network; providing a web site that enables users to post items for sale through on-line classified advertisements and messages;

<b>FILING BASIS</b>	Section 1(b)
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**GOODS AND/OR SERVICES SECTION (038)(current)**

<b>INTERNATIONAL CLASS</b>	038
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**DESCRIPTION**

Communication services, namely, electronic transmission of data and documents among users of computers; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet; Computer transmission of information accessed via a code or a terminal; Data communication by electronic mail; Delivery of messages by electronic transmission; Delivery of personalized greeting cards to others via electronic mail; Electronic message sending; Electronic message transmission; Electronic store-and-forward messaging; Electronic transmission of data and documents via computer terminals; Electronic transmission of messages and data; Electronic, electric, and digital transmission of voice, data, images, signals, and messages; Information transmission services via digital networks; Information transmission via electronic communications networks; Providing access to databases; Providing on-line chat rooms for transmission of messages among computer users concerning field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics; Providing on-line communications links which transfer the website user to other local and global web pages; Providing on-line electronic bulletin boards for transmission of messages among computer users concerning field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics; Providing on-line forums for transmission of messages among computer users concerning field

of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics; Streaming of audio material on the Internet; Streaming of video material on the Internet; Transmission of messages over electronic media; Transmission of short messages; Transmission of sound and vision via satellite or interactive multimedia networks; Transmission of sound, picture and data signals; Transmission of sound, video and information

**FILING BASIS**

Section 1(b)

**GOODS AND/OR SERVICES SECTION (038)(proposed)****INTERNATIONAL CLASS**

038

**DESCRIPTION**

Communications services, namely, providing on-line chat rooms and forums for transmission of messages, photographs, information and data among computer users in the field of general interest, including among alumni of various educational institutions; Electronic transmission of information, messages, data, sound, images and documents among users of computers; Providing on-line communications links which transfer the website user to other local and global web pages electronic transmission of data and documents among users of computers; providing access to databases via a global communication network.

**FILING BASIS**

Section 1(b)

**SIGNATURE SECTION****RESPONSE SIGNATURE**

/Gregory F. Buhyoff/

**SIGNATORY'S NAME**

Gregory F. Buhyoff

**SIGNATORY'S POSITION**

Attorney of record

**DATE SIGNED**

01/06/2008

**AUTHORIZED SIGNATORY**

YES

**FILING INFORMATION SECTION****SUBMIT DATE**

Sun Jan 06 18:23:15 EST 2008

**TEAS STAMP**

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bb145a03e795ef4-N/A-N/A-2  
0080106180807194592

**Response to Office Action**  
**To the Commissioner for Trademarks:**

MYSCHOOL00000330



Application serial no. **77137273** has been amended as follows:

## **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

Applicant Joseph L. Carpenter (“Applicant”) responds as follows to the Office Action (“Office Action”) dated July 9, 2007 in respect of Application Serial No. 77137273 (the “Application”) for the mark MSCHOOL (“MYSCHOOL”, “Applicant’s Mark” or “the Mark”).

Applicant respectfully contends that the mark MYSCHOOL is not merely descriptive of the services identified in the Application and therefore respectfully requests the Examining Attorney to withdraw the refusal to register on this basis.

## **AMENDMENT TO IDENTIFICATION OF GOODS AND SERVICES**

Before addressing the issue of descriptiveness, Applicant respectfully requests that the identification of services be amended as requested in the appropriate section of this Response to Office Action.

## **MYSCHOOL MARK IS NOT MERELY DESCRIPTIVE OF APPLICANT'S SERVICES**

In order for the refusal of Applicant’s MYSCHOOL mark to be proper, this mark must merely describe the services identified in the Application. Applicant submits that it is unlikely that consumers would conclude that the MYSCHOOL *mark merely* describes these particular services. It is well settled that for a mark to be deemed descriptive, it must “forthwith convey an immediate idea of the ingredients, qualities or characteristics of the goods.” *Stix Products, Inc. v. United Merchants & Mfrs. Inc.*, 295 F.Supp. 479, 160 U.S.P.Q. 777 (S.D.N.Y.)

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“it is clear that, as defined, the word ‘audio’ means sound and that the word “fidelity” means faithfulness [sic]; that both terms have a well recognized meaning in the field of sound reproduction equipment.....It is also clear that terms synonymous with “audio fidelity”, such as “sound fidelity” and “sonic fidelity” have been and still are frequently being used in the sound equipment field..” *Audio Fidelity, supra*, 322 F.2d 578-579.

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Doubts on the Issue of Descriptiveness Should Be Resolved in Favor of Applicant

Finally, Applicant notes that the law is clear that any doubts on the issue of descriptiveness should be resolved in favor of the Applicant. *In re Pennwalt Corporation*, 173 U.S. P.Q. 317 (T.T.A.B. (“DRI-FOOT” not merely descriptive of foot anti-perspirant.)

CONCLUSION

Based on the foregoing, Applicant respectfully submits that its MYSCHOOL mark is not “merely descriptive” of the goods identified in the Application, and therefore respectfully requests that the Section 2(e)(1) refusal be withdrawn.

Respectfully submitted,  
Gregory F. Buhyoff  
Weide & Miller, Ltd.  
Attorneys for Applicant

**CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 035 for Advertising via electronic media and specifically the internet; Advertising, including promotion relating to the sale of articles and services for third parties by the transmission of advertising material and the dissemination of advertising messages on computer networks; Providing a web site at which users can offer goods for sale and buy goods offered by others; Providing a web site that enables users to post items for sale through on-line classified advertisements; Providing a web site where users can post ratings, reviews and recommendations on products and services; Providing a web site which features advertisements for the goods and services of others on a global computer network; Providing information about the goods and services of others via the global computer network; Public advocacy to promote awareness of educational material

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Proposed:** Class 035 for Advertising services, namely, advertising, promoting and offering information about the goods and services of others via a global communication network; providing a web site that enables users to post items for sale through on-line classified advertisements and messages;

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 038 for Communication services, namely, electronic transmission of data and documents among users of computers; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet; Computer transmission of information accessed via a code or a terminal; Data communication by electronic mail; Delivery of messages by electronic transmission; Delivery of personalized greeting cards to others via electronic mail; Electronic message sending; Electronic message transmission; Electronic store-and-forward messaging; Electronic transmission of data and documents via computer terminals; Electronic transmission of messages and data; Electronic, electric, and digital transmission of voice, data, images, signals, and messages; Information transmission services via digital networks; Information transmission via electronic communications networks; Providing access to databases; Providing on-line chat rooms for transmission of messages among computer users concerning field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics; Providing on-line communications links which transfer the website user to other local and global web pages; Providing on-line electronic bulletin boards for transmission of messages among computer users concerning field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics; Providing on-line forums for transmission of messages among computer users concerning field of general interest field of general interest, and also containing interactive polling pages about entertainment and a wide variety of topics; Streaming of audio material on the Internet; Streaming of video material on the Internet; Transmission of messages over electronic media; Transmission of short messages; Transmission of sound and vision via satellite or interactive multimedia networks; Transmission of sound, picture and data signals; Transmission of sound, video and information

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Proposed:** Class 038 for Communications services, namely, providing on-line chat rooms and forums for transmission of messages, photographs, information and data among computer users in the field of general interest, including among alumni of various educational institutions; Electronic transmission of information, messages, data, sound, images and documents among users of computers; Providing on-line communications links which transfer the website user to other local and global web pages electronic transmission of data and documents among users of computers; providing access to databases via a global communication network.

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**SIGNATURE(S)**

**Response Signature**

Signature: /Gregory F. Buhyoff/ Date: 01/06/2008

Signatory's Name: Gregory F. Buhyoff

Signatory's Position: Attorney of record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 77137273

Internet Transmission Date: Sun Jan 06 18:23:15 EST 2008

TEAS Stamp: USPTO/ROA-208.57.203.177-200801061823151

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